Case 2:19-cv-05049-NIQA Document 1 Filed 10/28/19 Page 1 of 47

JS 44 (Rev. 09/19)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS Robert Sokolove			DEFENDANTS Continental Tire th	e Americas LLC and Tir	e Rack	
(b) County of Residence (E.	of First Listed Plaintiff <u>Bu</u> XCEPT IN U.S. PLAINTIFF CAS	ucks County		of First Listed Defendant (IN U.S. PLAINTIFF CASES CONDEMNATION CASES, USE TO FLAND INVOLVED.		
(c) Attorneys (Firm Name, Address, and Telephone Number) Joseph A. Cullen, Jr., Esq. 267-907-9600 777 Township Line Rd. #120 Yardley, PA 19067			Attorneys (If Known) Kevin E. Hexstall, Esq. 2000 Market St., Suite 2300 Philadelphia, PA 19103 Thomas E. Tyler, Esq. 123 South Broad Street, Suite 2300 Philadelphia, PA 19109			
II. BASIS OF JURISDI	ICTION (Place an "X" in One	e Box Only)		RINCIPAL PARTIES	(Place an "X" in One Box for Plaintiff	
□ 1 U.S. Government Plaintiff	3 Federal Question (U.S. Government No.	ot a Party)		FF DEF ⟨ 1 □ 1 Incorporated or Pr of Business In T		
☐ 2 U.S. Government Defendant	■ 4 Diversity (Indicate Citizenship)	of Parties in Item III)	Citizen of Another State	2 X 2 Incorporated and I of Business In .		
			Citizen or Subject of a Foreign Country	3 X 3 Foreign Nation	06 06	
IV. NATURE OF SUIT					of Suit Code Descriptions.	
CONTRACT 110 Insurance 120 Marine 130 Miller Act 140 Negotiable Instrument 150 Recovery of Overpayment & Enforcement of Judgment 151 Medicare Act 152 Recovery of Defaulted Student Loans (Excludes Veterans) 153 Recovery of Overpayment of Veteran's Benefits 160 Stockholders' Suits 190 Other Contract 195 Contract Product Liability 196 Franchise REAL PROPERTY 210 Land Condemnation 220 Foreclosure 230 Rent Lease & Ejectment 240 Torts to Land 245 Tort Product Liability 290 All Other Real Property	PERSONAL INJURY 310 Airplane 315 Airplane Product Liability 320 Assault, Libel & Slander 330 Federal Employers' Liability 340 Marine 345 Marine Product Liability 350 Motor Vehicle Product Liability 360 Other Personal Injury 362 Personal Injury Medical Malpractice CIVIL RIGHTS 441 Voting 442 Employment 443 Housing/ Accommodations 445 Amer. w/Disabilities - Other CHE COTHER COTHER 446 Amer. w/Disabilities - Other 448 Education	PERSONAL INJURY 365 Personal Injury - Product Liability 367 Health Care/ Pharmaceutical Personal Injury Product Liability 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY 370 Other Fraud 371 Truth in Lending 380 Other Personal Property Damage Product Liability PRISONER PETITIONS Habeas Corpus: 463 Alien Detainee 510 Motions to Vacate Sentence	FORFEITURE/PENALTY 625 Drug Related Seizure of Property 21 USC 881 690 Other LABOR 710 Fair Labor Standards Act 720 Labor/Management Relations 740 Railway Labor Act 751 Family and Medical Leave Act 790 Other Labor Litigation 791 Employee Retirement Income Security Act IMMIGRATION 462 Naturalization Application Actions Actions	BANKRUPTCY 422 Appeal 28 USC 158 423 Withdrawal 28 USC 157 PROPERTY RIGHTS 820 Copyrights 830 Patent 835 Patent - Abbreviated New Drug Application 840 Trademark SOCIAL SECURITY 861 HIA (1395ff) 862 Black Lung (923) 863 DIWC/DIWW (405(g)) 864 SSID Title XVI 865 RSI (405(g)) FEDERAL TAX SUITS 870 Taxes (U.S. Plaintiff or Defendant) 871 IRS—Third Party 26 USC 7609	OTHER STATUTES 375 False Claims Act 376 Qui Tam (31 USC 3729(a)) 400 State Reapportionment 410 Antitrust 430 Banks and Banking 450 Commerce 460 Deportation 470 Racketeer Influenced and Corrupt Organizations 480 Consumer Credit (15 USC 1681 or 1692) 485 Telephone Consumer Protection Act 490 Cable/Sat TV 850 Securities/Commodities/Exchange 890 Other Statutory Actions 891 Agricultural Acts 893 Environmental Matters 895 Freedom of Information Act 896 Arbitration 899 Administrative Procedure Act/Review or Appeal of Agency Decision 950 Constitutionality of State Statutes	
V. ORIGIN (Place an "X" II 1 Original Proceeding	moved from 3 R A Cite the U.S. Civil Statu 28 U.S.C. § 1332 Brief description of cau	ppellate Court Ite under which you are filese: Ility, negligence, breacts S A CLASS ACTION	(specify) ling (Do not cite jurisdictional stat	r District Litigation Transfer utes unless diversity):	- Litigation - Direct File	
VIII. RELATED CASI	E(S) (See instructions):	UDGE		DOCKET NUMBER	L 103 D10	
DATE 10/28/2019			NEY OF RECORD			
FOR OFFICE USE ONLY	(OLINIT)	ADDI VING IED	HIDGE	ALC WIT		

Case 2:19-cv-05049-NIQA Document 1 Filed 10/28/19 Page 2 of 47

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DESIGNATION FORM

(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff: Robert Sokolove, 376 David Drive, Langhorne, PA 19047
Address of Defendant: Continental Tire the Americas LLC, 1830 MacMillian Park Drive, Ft. Mill, SC 29707; Tire Rack, 7101 Vorden Parkway, South Bend, IN 46628
Place of Accident, Incident or Transaction: Westerly direction on I-76 located in Charlestown Township, Chester County, Pennsylvania
RELATED CASE, IF ANY:
Case Number: Judge: Date Terminated:
Civil cases are deemed related when Yes is answered to any of the following questions:
1. Is this case related to property included in an earlier numbered suit pending or within one year Yes No previously terminated action in this court?
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit Yes No No
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court?
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights Yes No No
I certify that, to my knowledge, the within case is / is not related to any case now pending or within one year previously terminated action in this court except as noted above.
DATE: 10/28/2019 // Emystall 81248
Attorney-at-Law / Pro Se Plaintiff Attorney 1.D. # (if applicable)
CIVIL: (Place a √in one category only)
A. Federal Question Cases: B. Diversity Jurisdiction Cases:
□ 1. Indemnity Contract, Marine Contract, and All Other Contracts □ 1. Insurance Contract and Other Contracts □ 2. FELA □ 2. Airplane Personal Injury □ 3. Jones Act-Personal Injury □ 3. Assault, Defamation □ 4. Antitrust □ 4. Marine Personal Injury □ 5. Patent □ 5. Motor Vehicle Personal Injury □ 6. Labor-Management Relations □ 6. Other Personal Injury (Please specify): □ 7. Civil Rights □ 7. Products Liability □ 8. Habeas Corpus □ 8. Products Liability - Asbestos □ 9. Securities Act(s) Cases □ 9. All other Diversity Cases □ 10. Social Security Review Cases □ 9. All other Diversity Cases □ 11. All other Federal Question Cases (Please specify):
ARBITRATION CERTIFICATION (The effect of this certification is to remove the case from eligibility for arbitration.)
I,, counsel of record or pro se plaintiff, do hereby certify:
Pursuant to Local Civil Rule 53.2, § 3(c) (2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs:
Relief other than monetary damages is sought.
DATE: 10/28/2019 Lesign belong the latest and the second
NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

Case 2:19-cv-05049-NIQA Document 1 Filed 10/28/19 Page 3 of 47

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DESIGNATION FORM

(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Figure 11.	6 David Drive, Langhorne, PA 19047
Address of Defendant: Continental Tire the Americas LLC, 1830 MacMillian Pa	rk Drive, Ft. Mill, SC 29707; Tire Rack, 7101 Vorden Parkway, South Bend, IN 46628
Place of Accident, Incident or Transaction: Westerly direction on I-	76 located in Charlestown Township, Chester County, Pennsylvania
RELATED CASE, IF ANY:	
Case Number: Judge:	Date Terminated:
Civil cases are deemed related when Yes is answered to any of the following	g questions:
 Is this case related to property included in an earlier numbered suit pen previously terminated action in this court? 	ding or within one year Yes No
2. Does this case involve the same issue of fact or grow out of the same to pending or within one year previously terminated action in this court?	ransaction as a prior suit Yes No
 Does this case involve the validity or infringement of a patent already numbered case pending or within one year previously terminated actio 	
4. Is this case a second or successive habeas corpus, social security appearase filed by the same individual?	II, or pro se civil rights Yes No
I certify that, to my knowledge, the within case is / is not related this court except as noted above.	to any case now pending or within one year previously terminated action in
DATE: 10/28/2019	BASTACL 81248
Attorney-at-La	TW / Pro Se Plaintiff Attorney I.D. # (if applicable)
CIVIL: (Place a √in one category only)	
A. Federal Question Cases:	B. Diversity Jurisdiction Cases:
 1. Indemnity Contract, Marine Contract, and All Other Contracts 2. FELA 	 Insurance Contract and Other Contracts Airplane Personal Injury
3. Jones Act-Personal Injury	3. Assault, Defamation
4. Antitrust 5. Patent	4. Marine Personal Injury 5. Motor Vehicle Personal Injury
6. Labor-Management Relations	6. Other Personal Injury (Please specify):
7. Civil Rights 8. Habeas Corpus	 7. Products Liability 8. Products Liability – Asbestos
9. Securities Act(s) Cases	9. All other Diversity Cases
 □ 10. Social Security Review Cases □ 11. All other Federal Question Cases 	(Please specify):
(Please specify):	
ARBITRAT	TION CERTIFICATION
(The effect of this certification is to	remove the case from eligibility for arbitration.)
I,, counsel of record or pro se	plaintiff, do hereby certify:
Pursuant to Local Civil Rule 53.2, § 3(c) (2), that to the best of m exceed the sum of \$150,000.00 exclusive of interest and costs:	y knowledge and belief, the damages recoverable in this civil action case
Relief other than monetary damages is sought.	
DATE: 10/28/2019	81248
Attorney-at-La	Attorney I.D. # (if applicable)
NOTE: A trial de novo will be a trial by jury only if there has been compliance with	r.K.C.P. 30.

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CASE MANAGEMENT TRACK DESIGNATION FORM

Robert Sokolove	:	CIVIL ACTION	
v.	i		
Continental Tire the Americas LL	C and Tire Rack	NO.	
plaintiff shall complete a Case filing the complaint and serve a side of this form.) In the eve designation, that defendant sha	Management Track Designant copy on all defendants. (See left that a defendant does not all, with its first appearance, es, a Case Management Trace.)	Reduction Plan of this court, counsel fortion Form in all civil cases at the time of § 1:03 of the plan set forth on the revers of agree with the plaintiff regarding sa submit to the clerk of court and serve of the Resignation Form specifying the tracked.	of se id on
SELECT ONE OF THE FOI	LOWING CASE MANAG	SEMENT TRACKS:	
(a) Habeas Corpus – Cases bro	ought under 28 U.S.C. § 224	1 through § 2255. ()
(b) Social Security – Cases rec and Human Services denyi	questing review of a decisioning plaintiff Social Security	n of the Secretary of Health Benefits.)
(c) Arbitration - Cases require	ed to be designated for arbitr	ation under Local Civil Rule 53.2. ()
(d) Asbestos – Cases involving exposure to asbestos.	g claims for personal injury	or property damage from ()
	ses that do not fall into track omplex and that need special e of this form for a detailed	l or intense management by explanation of special)
(f) Standard Management – C	ases that do not fall into any	one of the other tracks.	()
10/28/19	Kevin E. Hexstall	Continental Tire the Americas LL	C
Date	Attorney-at-law	Attorney for	_
215-575-2642	215-515-0856	kehexstall@mdwcg.com	
Telephone	FAX Number	E-Mail Address	

(Civ. 660) 10/02

IN THE UNITED STATES DISTRICT COURT EASTERN DISTRICT OF PENNSYLVANIA

Robert Sokolove,)	CASE NO.
vs.)	JUDGE
Continental Tire the Americas LLC		
and	.)	
Tire Rack)	

NOTICE OF REMOVAL

Defendant Continental Tire the Americas, LLC hereby gives notice of removal of a civil action, Case No. 190703491, from the Court of Common Pleas of Philadelphia County, Pennsylvania. Removal of this action is proper under 28 U.S.C. §§ 1441 and 1446 for the reasons set forth below.

- 1. On or about July 26, 2019, Robert Sokolove filed a praecipe for writ of summons against Continental and Tire Rack in the Court of Common Pleas of Philadelphia County, where it is currently pending.
 - 2. The Philadelphia Court of Common Pleas assigned Case No. 190703491 to the writ.
- 3. On or about October 2, 2019, Mr. Sokolove filed a Complaint against Continental and Tire Rack under the same case number.
 - 4. The Complaint was mailed to Continental under a cover letter dated October 2, 2019.
- 5. Removal may be accomplished under 28 U.S.C. 1446(b)(1) "within 30 days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based."
- 6. Under the Pennsylvania Rules of Civil Procedure, a praecipe for writ of summons is not a "pleading." See Pa.R.C.P. 1017.

- 7. But the United States Court of Appeals for the Third Circuit has also expressly held that "a writ of summons alone can no longer be the 'initial pleading' that triggers the 30-day period for removal under the first paragraph of 28 U.S.C. § 1446(b)." *Sikirica v. Nationwide Ins. Co.*, 416 F.3d 214, 223 (3d Cir. 2005).
- 8. This Notice of Removal is filed within thirty days of service of the Complaint—the initial pleading—on Continental.
 - 9. Removal is therefore timely under 28 U.S.C. 1446(b)(1).
- 10. Plaintiff Robert Sokolove is a citizen of Pennsylvania. *See* Complaint ¶ 1 (asserting his permanent residence in Bucks County, Pennsylvania).
- 11. Continental is a limited liability company, whose citizenship is determined by that of its members. See Zambelli Fireworks Mfg. Co. v. Wood, 592 F.3d 412, 418 (3d Cir. 2010).
- 12. For purposes establishing diversity of citizenship for subject matter jurisdiction under 28 U.S.C. § 1332, Continental is ultimately a citizen only of Germany. The basis for that assertion is as follows:
 - a. The sole member and exclusive owner of Continental Tire the Americas, LLC is Continental Tire Holding US LLC.
 - b. The sole member and exclusive owner of Continental Tire Holding US LLC is Continental Global Holding Netherlands B.V.
 - c. Continental Global Holding Netherlands B.V. is a limited liability holding company organized under the laws of the Netherlands. The sole member and exclusive owner of Continental Global Holding Netherlands B.V. is CGH Holding B.V.

- d. CGH Holding B.V. is a limited liability company organized under the laws of the Netherlands. The sole member and exclusive owner of CGH Holding B.V. is CAS-One Holdinggesellschaft mbH.
- e. CAS-One Holdinggesellschaft mbH is a limited liability company organized under the laws of Germany. The sole member and exclusive owner of CAS-One Holdinggesellschaft mbH is Continental Caoutchouc-Export-GmbH.
- f. Continental Caoutchouc-Export-GmbH is a limited liability company organized under the laws of Germany. It has two members and exclusive owners: Continental Automotive GmbH and Continental Aktiengesellschaft.
- g. Continental Automotive GmbH is a limited liability company organized under the laws of Germany. The sole member and exclusive owner of Continental Automotive GmbH is Continental Aktiengesellschaft.
- h. Continental Aktiengesellschaft is a stock corporation organized under the laws of Germany. Its principal place of business is in Hannover, Germany.
- 13. Defendant Tire Rack is an Indiana corporation with its principal place of business in Indiana. See Complaint ¶ 3.
- 14. There is, therefore, complete diversity of citizenship between Plaintiff and both of the Defendants. 28 U.S.C. § 1332(a)(1) & (2).
- 15. The Complaint does not allege the amount in controversy. Under such circumstance, "a defendant's notice of removal need include only a plausible allegation that the amount in controversy exceeds the jurisdictional threshold. Evidence establishing the amount is required by §1446(c)(2)(B) only when the plaintiff contests, or the court questions, the defendant's allegation." *Dart Cherokee Basin Operating Co., LLC v. Owens*, 574 U.S. 81, 89 (2014).

- 16. Based on the Complaint's allegations that the vehicle struck a tree stump and overturned because "[t]he front tires had fallen off the vehicle" while Mr. Sokolove was driving it on an interstate highway, and that Mr. Sokolove thereby sustained "severe and permanent injuries including but not limited to Fractured Lumbar (L2); Separated Left Shoulder; Torn Right Meniscus requiring surgery; and back injury," "a loss of earnings and/or earning capacity . . . to his great detriment and loss," "substantial medical expense as a result of medical treatment in the past" and "for the rest of his life," "pain, discomfort, frustration, embarrassment, loss of enjoyment of life's pleasures, [and] an inability to attend to his usual and daily activities . . . for the rest of his life," Complaint ¶¶ 12–18, Continental avers for purposes of this Notice of Removal only that the amount in controversy in this action is greater than \$75,000, excluding interest and costs.
 - 17. The amount-in-controversy requirement of 28 U.S.C. § 1332(a) is, therefore, satisfied.
 - 18. This Court thus has subject matter jurisdiction over this case under 28 U.S.C. § 1332.
- 19. As required by 28 U.S.C. § 1446(b)(2)(A), Tire Rack joins in and consents to this removal. *See* Email attached hereto.
- 20. Removal of this case to the United States District Court for the Eastern District of Pennsylvania is proper under 28 U.S.C. 1441(a), because this Court embraces Philadelphia County. See 28 U.S.C. § 118(a).
- 21. As required by 28 U.S.C. § 1446(a), attached to this Notice of Removal is a copy of all process, pleadings, and orders, if any, served on Continental in this action.
- 22. By filing this Notice of Removal, Continental does not intend to waive, and hereby reserves, all objections as to service, personal jurisdiction, and all other defenses.
 - 23. This Notice of Removal is being served on counsel for Mr. Sokolove on this date.

24. Continental will promptly file a copy of this Notice of Removal with the Prothonotary of the Court of Common Pleas of Philadelphia County, Pennsylvania.

WHEREFORE, this action is hereby removed from the Court of Common Pleas of Philadelphia County, Pennsylvania to the United States District Court for the Eastern District of Pennsylvania.

MARSHALL DENNEHEY WARNER COLEMAN & GOGGIN

BY:

KEVIN E. HEXSTALL, ESQUIRE MOHAMED N. BAKRY, ESQUIRE

2000 Market Street, Suite 2300

Philadelphia, PA 19103 Telephone: 215-575-2600 Facsimile: 215-575-0856 kehexstall@mdwcg.com

mnbakry@mdwcg.com

Attorneys for Defendant Continental Tire the Americas, LLC

Dated: October 28, 2019

IN THE UNITED STATES DISTRICT COURT EASTERN DISTRICT OF PENNSYLVANIA

Robert Sokolove,) CASE NO
VS.) JUDGE
Continental Tire the Americas LLC)
and)
Tire Rack))

AFFIDAVIT

Kevin Hexstall, being duly sworn according to law deposes and states that the facts set forth in the foregoing Notice of Removal are true and correct to the best of his knowledge, information and belief.

BY:

KEVIN E. HEXSTALL, ESQUIRE 2000 Market Street, Suite 2300 Philadelphia, PA 19103

kehexstall@mdwcg.com

Attorney for Defendant Continental Tire the Americas, LLC

SWORN TO AND SUBSCRIBED

BEFORE ME THIS DA

OF Wahl, 2019

COMMONWEALTH OF PENNSYLVANIA

NOTARIAL SEAL
CATHERINE R SILVESTRO
Notary Public
CITY OF PHILADELPHIA, PHILADELPHIA CNTY
My Commission Expires Apr 27, 2020

EXHIBIT A





Civil Docket Report

A \$5 Convenience fee will be added to the transaction at checkout.

Case Description

Case ID:

190703491

Case Caption: SOKOLOVE VS CONTINENTAL TIRE THE AMERICAS LLC ETAL

Filing Date:

Friday , July 26th, 2019

Court:

MAJOR JURY-COMPLEX

Location:

City Hall

Jury:

JURY

Case Type:

PRODUCT LIABILITY

Status:

LISTED FOR CASE MGMT CONF

Related Cases

No related cases were found.

Case Event Schedule

Event	Date/Time	Room	Location	Judge
CASE MANAGEMENT CONFERENCE	05-NOV-2019 02:00 PM		Case Management Center, Rm 613	unassigned

Case motions

No case motions were found.

Case Parties

Seq#	Assoc	Expn Date	Туре	Name
1			ATTORNEY FOR PLAINTIFF	CULLEN, JOSEPH A
Address:	777 TOWNSHIP LINE ROAD SUITE 120 YARDLEY PA 19067 (267)907-9600	Aliases:	none	

2	1		PLAINTIFF	SOKOLOVE, ROBERT
Address:	376 DAVID DR LANGHORNE PA 19047	Aliases:	none	
3	7		DEFENDANT	CONTINENTAL TIRE THE AMERICAS LLC
Address:	1950 CONTINENTAL BLVD CHARLOTTE NC 28273	Aliases:	none	
1	6		DEEENDANT	TIRE RACK
4		A 11	DEFENDANT	TIRE RACK
Address:	7101 VORDEN PKWY SOUTH BEND IN 46628	Aliases:	none	
5			TEAM LEADER	NEW, ARNOLD L
Address:	606 CITY HALL PHILADELPHIA PA 19107 (215)686-7260	Aliases:	none	
6			ATTORNEY FOR DEFENDANT	TYLER, THOMAS E
Address:	123 S BROAD ST SUITE 2102 PHILADELPHIA PA 19109-1024 (215)732-3755	Aliases:	none	
7			ATTORNEY FOR DEFENDANT	HEXSTALL, KEVIN E
Address:	MARSHALL DENNEHEY WARNER 2000 MARKET ST	Aliases:	none	J.

	SUITE 2300 PHILADELPHIA PA 19107 (215)575-2642			
8	7		ATTORNEY FOR DEFENDANT	BAKRY, MOHAMED N
Address:	MARSHALL DENNEHEY 2000 MARKET STREET PHILADELPHIA PA 19103 (267)295-4042	Aliases:	none	

Docket Entries

Filing Date/Time	Docket Type	Filing Party	Disposition Amount	Approval/ Entry Date	
26-JUL-2019 11:48 AM	ACTIVE CASE			26-JUL-2019 01:25 PM	
Docket Entry:	E-Filing Number: 1907059	9743			
	1				
26-JUL-2019 11:48 AM	COMMENCEMENT CIVIL ACTION JURY	CULLEN, JOSEPH A		26-JUL-2019 01:25 PM	
Documents:	Final Cover				
Docket Entry:	none.				
26-JUL-2019 11:48 AM	PRAE TO ISSUE WRIT OF SUMMONS	CULLEN, JOSEPH A		26-JUL-2019 01:25 PM	
Documents:	Sokolove - Praecipe for Writ of Summons.pdf Sokolove - Writ of Summons 7-26-19.pdf				
	PRAECIPE TO ISSUE WRIT OF SUMMONS FILED. WRIT OF SUMMONS ISSUED.				
The state of the s					

26-JUL-2019 11:48 AM	JURY TRIAL PERFECTED	CULLEN, JOSEPH A		26-JUL-2019 01:25 PM	
Docket Entry:	12 JURORS REQUESTE	D.			
26-JUL-2019 11:48 AM	WAITING TO LIST CASE MGMT CONF	CULLEN, JOSEPH A		26-JUL-2019 01:25 PM	
Docket Entry:	none.				
02-AUG-2019 03:40 PM	ENTRY OF APPEARANCE	TYLER, THOMAS E		02-AUG-2019 03:41 PM	
Documents:	Sokolove - Entry of Appearance	e for The Tire Rack,	Inc.pdf		
	ENTRY OF APPEARANC BEHALF OF TIRE RACK)		E TYLER FILED.	(FILED ON	
02-AUG-2019 04:23 PM	RULE TO FILE COMPLAINT	TYLER, THOMAS E		05-AUG-2019 09:20 AM	
Documents:	Sokolove - Praecipe and Rule to File Complaint 08-02-19.pdf				
Docket Entry:	PRAECIPE AND RULE F COMPLAINT WITHIN TW NON PROS FILED. (FILE	ENTY (20) DAYS	S OR SUFFER J		
06-AUG-2019 04:41 PM	AFFIDAVIT OF SERVICE FILED	CULLEN, JOSEPH A		06-AUG-2019 04:42 PM	
Documents:	Sokolove Affidavit of Service T	ire Rack 8-6-19.pdf			
Docket Entry:	AFFIDAVIT OF SERVICE TIRE RACK BY CERTIFIE BEHALF OF ROBERT SO	ED MAIL ON 07/2			
	1				
24-SEP-2019 11:19 AM	AFFIDAVIT OF SERVICE FILED	CULLEN, JOSEPH A		24-SEP-2019 11:22 AM	
Documents:	Sokolove - Affidavit of Service to Continental Tire.pdf				
Docket	AFFIDAVIT OF SERVICE	OF PLAINTIFF'S	S WRIT OF SUM	MONS UPON	

Entry:	CONTINENTAL TIRE THE AMERICAS LLC BY CERTIFIED MAIL ON 08/16/2019 FILED. (FILED ON BEHALF OF ROBERT SOKOLOVE)			
30-SEP-2019 04:56 PM	LISTED FOR CASE MGMT CONF			30-SEP-2019 04:56 PM
Docket Entry:	none.			8
02-OCT-2019 12:30 AM	NOTICE GIVEN			02-OCT-2019 12:30 AM
Docket Entry:	none.			
02-OCT-2019 12:07 PM	COMPLAINT FILED NOTICE GIVEN	CULLEN, JOSEPH A		02-OCT-2019 12:10 PM
Documents:	Sokolove - Complaint.pdf			
Docket Entry:	COMPLAINT WITH NOTICE TO DEFEND WITHIN TWENTY (20) DAYS AFTER SERVICE IN ACCORDANCE WITH RULE 1018.1 FILED. (FILED ON BEHALF OF ROBERT SOKOLOVE)			
22-OCT-2019 11:19 AM	ENTRY OF APPEARANCE	HEXSTALL, KEVIN E		22-OCT-2019 12:49 PM
Documents:	Sokolove - Continental Tire EOA.pdf			
Docket Entry:	ENTRY OF APPEARANCE OF KEVIN E HEXSTALL AND MOHAMED N BAKRY FILED. (FILED ON BEHALF OF CONTINENTAL TIRE THE AMERICAS LLC)			
24-OCT-2019 12:30 AM	NOTICE GIVEN			24-OCT-2019 12:30 AM
Docket Entry:	none.			

▶ Case Description ▶ Related Cases ▶ Event Schedule ▶ Case Parties ▶ Docket Entries

E-Filing System

Search Home

Case 2:19-cv-05049-NIQA Document 1 Filed 10/28/19 Page 18 of 47

Court of Common Pleas of Philadelphia County For Prothonotary Use Only (Docket Number) **Trial Division** JULY 2019 003491 **Civil Cover Sheet** E-Filing Number: 1907059743 PLAINTIFF'S NAME DEFENDANT'S NAME CONTINENTAL TIRE THE AMERICAS LLC ROBERT SOKOLOVE PLAINTIFF'S ADDRESS 376 DAVID DRIVE LANGHORNE PA 19047 DEFENDANT'S ADDRESS 1950 CONTINENTAL BOULEVARD CHARLOTTE NC 28273 PLAINTIFF'S NAME DEFENDANT'S NAME TIRE RACK DEFENDANT'S ADDRESS 7101 VORDEN PKWY PLAINTIFF'S ADDRESS SOUTH BEND IN 46628 PLAINTIFF'S NAME DEFENDANT'S NAME PLAINTIFF'S ADDRESS DEFENDANT'S ADDRESS TOTAL NUMBER OF PLAINTIFFS TOTAL NUMBER OF DEFENDANTS COMMENCEMENT OF ACTION ☐ Complaint ☐ Petition Action ☐ Notice of Appeal 1 2 Writ of Summons ☐ Transfer From Other Jurisdictions AMOUNT IN CONTROVERSY COURT PROGRAMS ☐ Settlement ☐ Commerce Arbitration Mass Tort \$50,000.00 or less X Jury ☐ Minors ☐ Minor Court Appeal Savings Action More than \$50,000.00 ☐ Non-Jury ☐ Petition ☐ Statutory Appeals □ W/D/Survival Other: CASE TYPE AND CODE 2P - PRODUCT LIABILITY STATUTORY BASIS FOR CAUSE OF ACTION RELATED PENDING CASES (LIST BY CASE CAPTION AND DOCKET NUMBER) IS CASE SUBJECT TO FILED COORDINATION ORDER? **PRO PROTHY** YES NO JUL 26 2019 A. SILIGRINI TO THE PROTHONOTARY: Kindly enter my appearance on behalf of Plaintiff/Petitioner/Appellant: ROBERT SOKOLOVE Papers may be served at the address set forth below. NAME OF PLAINTIFF'S/PETITIONER'S/APPELLANT'S ATTORNEY 777 TOWNSHIP LINE ROAD JOSEPH A. CULLEN SUITE 120 PHONE NUMBER FAX NUMBER YARDLEY PA 19067 (267) 907-9600 (267)907 - 9659SUPREME COURT IDENTIFICATION NO. E-MAIL ADDRESS 82167 jcullen@stark-stark.com DATE SUBMITTED SIGNATURE OF FILING ATTORNEY OR PARTY JOSEPH CULLEN Friday, July 26, 2019, 11:48 am

STARK & STARK, P.C. Joseph A. Cullen, Jr., ESQUIRE Identification No.: 82167 777 Township Line Rd. #120 Yardley, PA 19067 Telephone: (267)907-9600 Facsimile: (267)907-9659 e-mail: jcullen@stark-stark.com	Altorneys for Plain Filed and Attested by the Of Judicial Records 26 JUD 2019 11:48 am
Robert Sokolove 376 David Drive Langhorne, PA 19047	: COURT OF COMMON PLEAS : PHILADELPHIA COUNTY, PA :
vs.	Term, 2019 : : No
Continental Tire the Americas LLC 1950 Continental Blvd. Charlotte, NC 28273 and	1 1 1 5
Tire Rack 7101 Vorden Parkway South Bend, IN 46628	
PRAECIPE FOR	SUMMONS
TO THE PROTHONOTARY:	
Issue summons in Civil Action in the above	e case.
X Writ of Summons shall be issued	and forwarded to Sheriff/Attorney.
	Respectfully submitted:
	STARK & STARK, P.C.
Date: 7/24/19	Joseph A. Cullen Jr., Esq. Telephone: (267)907-9600

Supreme Court ID: 82167

Summons Citacion

Commonwealth of Pennsylvania county of Philadelphia

Filed and Attested by the Office of Judicial Records

Robert Sokolove	26 JUD 2019 11 48 am
Plaintiff	COURT OF COMMON PLASTICATION
	:Term, 20
VS.	
	: No
Continental Tire the Americas, LLC	
Defendant	
and Tire Rack	
To Defendant	
Continental Tire the Americas, LLC	
and	
Tire Rack	
W	rit of Summons
Usted esta avisado que el demandante Robert Sokolove	
Has (have) commenced an action agains	
Ha (han) iniciado una accion en contra	suya.
\$	ERIC FEDER Director, Office of Judicial Records 10101
	Director, Office of such chair Rectification
	Ву:
, , ,	190703491 26 JUL 2019, 11:48 am
• • • •	190703491

10-208 (Rev. 6/14

Case ID: 190703491

¹ Name(s) of Defendant(s)
² Name(s) of Plaintiff(s)

Filed and Attested by the Office of Judicial Records 02 AUG 2019 03:40 pm

DAVIS, PARRY & TYLER, P.C.

By: Thomas E. Tyler Attorney I.D. No. 46521 123 South Broad Street Suite 2102 Philadelphia, PA 19109-1024 (215) 732-3755

Email: tetyler@dpt-law.com

Attorney for Defendant, The Tire Rack, Inc.

ROBERT SOKOLOVE

V.

: COURT OF COMMON PLEAS

PHILADELPHIA COUNTY,

: PENNSYLVANIA

CONTINENTAL TIRE THE AMERICAS, LLC and

TIRE RACK

No. 190703491

ENTRY OF APPEARANCE

TO THE PROTHONOTARY:

Kindly enter my appearance as counsel for the defendant, The Tire Rack, Inc., incorrectly identified as Tire Rack in plaintiff's Writ of Summons, in the above-captioned matter.

Date: August 2, 2019

THOMAS E. TYLER

Attorney for Defendant, The Tire Rack, Inc.

Filed and Attested by the Office of Judicial Records AUG 2019 04 23 pm

DAVIS, PARRY & TYLER, P.C.

By: Thomas E. Tyler Attorney I.D. No. 46521 123 South Broad Street Suite 2102

Philadelphia, PA 19109-1024

(215) 732-3755

Email: tetyler@dpt-law.com

Attorney for Defendant, The Tire Rack, Inc.

ROBERT SOKOLOVE

COURT OF COMMON PLEAS

PHILADELPHIA COUNTY,

:

CONTINENTAL TIRE THE AMERICAS, LLC and

TIRE RACK

No. 190703491

PENNSYLVANIA

PRAECIPE FOR RULE TO FILE COMPLAINT

TO THE PROTHONOTARY:

Please enter a Rule upon plaintiff, Robert Sokolove, to file a Complaint within twenty days hereof or suffer the entry of a Judgment of Non Pros.

Date: August 2, 2019

THOMAS E. TYLER

Attorney for Defendant, The Tire Rack, Inc.

RULE TO FILE COMPLAINT

AND NOW, this day of August, 2019, a Rule is hereby granted upon praintiff to file a

Complaint herein within twenty days after service hereof or suffer the entry of a Judgment of Non Pros

190703491 02 AUG 2019 04:23 pm E. HAURIN

Prothonotary

Case ID: 190703491

STARK & STARK, P.C.

Joseph A. Cullen, Jr., ESQUIRE

Identification No.: 82167 777 Township Line Rd. #120

Yardley, PA 19067

Telephone: (267)907-9600 Facsimile: (267)907-9659 e-mail: jcullen@stark-stark.com Filed and Attested by the Office of Judicial Records Attorneys for Plaintiff 06 AUG 2019 04:41 pm

Robert Sokolove : COURT OF COMMON PLEAS 376 David Drive : PHILADELPHIA COUNTY, PA Langhorne, PA 19047 July Term, 2019 VS. No. 190703491_ Continental Tire the Americas LLC 1950 Continental Blvd. Charlotte, NC 28273 and Tire Rack 7101 Vorden Parkway South Bend, IN 46628 1:

AFFIDAVIT OF SERVICE

I, Joseph A. Cullen, Jr., Esq., being duly sworn according to law does depose and say that on July 26, 2019 the Writ of Summons issued to Defendant, Tire Rack in the above captioned matter was served by certified mail return receipt requested to Defendant, Tire Rack, 7101 Vorden Pkwy, South Bend, IN 46628 as evidenced by the attached copy of the certified mail return receipt card attached at Exhibit "A".

By:

THE WAY

Attorneys for Plaintiff

SWORN TO AND SUBSCRIBED BEFORE ME THIS GADAY OF August, 2019.

Notary Public

American of Pennsylvania - Notary Seat
JEROMPER WALKER, Notary Public
Bucks County
My Commission Expires May 21, 2022
Commission Number 1203009

Case ID: 190703491

EXHIBIT A

STARK & STARK

ATTORNEYS AT LAW

Via Certified Mail – Return Receipt Requested and First Class Mail 777 TOWNSHIP LINE ROAD, SUITE 120 YARDLEY, PA 19067-5559 267-907-9600 (PHONE) 267-907-9659 (FAX) WWW.STARK-STARK.COM

July 26, 2019

Tire Rack 7101 Vorden Pkwy South Bend, IN 46628

Re: Robert Sokolove v. Continental Tire the Americas, LLC and Tire Rack CCP Philadelphia

Dear Sir/Madam:

I represents Plaintiff, Robert Sokolove regarding the above matter. Enclosed for service upon you is a Writ of Summons issued by the Court of Common Pleas Philadelphia, Pennsylvania on July 26, 2019.

Please forward the enclosed to your insurance carrier and/or attorney.

Thank you for your attention to the enclosed.

My direct dial is (267)907-9612, e-mail jcullen@stark-stark.com

Very truly yours,

STARK & STARK, P.C.

Com OCM

By Thefth a clony		
US Postal Sandios" OERNICED MAILS RECEIPTS construction motor value on a construction of the constructio	SENDER: COMPLETE THIS SECTION Complete items 1, 2, and 3. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits.	A. Signature X. A. Addres B. Received by (Printed Name) C. Date of Deliv
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Court of Common Pleas of Philadelphia County		ly	For Prothonotary Use Only (Docket Number)		
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TO THE PROTHONOT Kindly enter my appeara		Plaintiff/Petitic	oner/Appellant: ROBER'	r sokolove	
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, upers may be derived as					
JOSEPH A. CULLEN		DRNEY		SHIP LINE ROAD	
PHONE NUMBER (267) 907-9600	FAX NUM (267)	BER 907-9659	YARDLEY I		
SUPREME COURT IDENTIFICATIO 82167		- 1	E-MAIL ADDRESS jcullen@s	stark-stark.com	
SIGNATURE OF FILING ATTORNET	Y OR PARTY		DATE SUBMITTED		
JOSEPH CULLEN			Eriday	v	17 0

STARK & STARK, P.C. Joseph A. Cullen, Jr., ESQUIRE Identification No.: 82167 777 Township Line Rd. #120 Yardley, PA 19067 Telephone: (267)907-9600 Facsimile: (267)907-9659 e-mail: jcullen@stark-stark.com	Altorneys for Plaintifice of Judicial Records 26 July 2010 11:48 am A. Silignin
Robert Sokolove 376 David Drive Langhorne, PA 19047	: COURT OF COMMON PLEAS : PHILADELPHIA COUNTY, PA : :Term, 2019
VS.	: : No
Continental Tire the Americas LLC 1950 Continental Blvd. Charlotte, NC 28273 and	
Tire Rack 7101 Vorden Parkway South Bend, IN 46628	
PRAECIPE	E FOR SUMMONS
TO THE PROTHONOTARY:	
Issue summons in Civil Action in the	above case.
X Writ of Summons shall be i	ssued and forwarded to Sheriff/Attorney.
	Respectfully submitted:
	STARK & STARK, P.C.
Date: 7/24/19	Joseph A. Cullen, Jr., Esq. Telephone: (267)907-9600 Supreme Court ID: 82167

Case ID: 190703491 Case ID: 190703491

Summous Cetación

Commonwealth of Pennsylvania county of Philadelphia

Filed and Attested by the Office of Judicial Records 26 JUL 2019 11:48 am

Robert Sokolove	COURT OF COMMON PLASTICIONING
Plaintiff	Term, 20
	:
vs.	: : No
Continental Tire the Americas, LLC	;
Defendant	
and Fire Rack To! Defendant	
Continental Tire the Americas, LLC	
and	
Tire Rack	
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You are notified that the Plaintiff ² Usted esta avisado que el demandame	t of Summons
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10-208 (Rev. 6/14

Case ID: 190703491

Case ID: 190703491

¹ Name(s) of Defendant(s)

² Name(s) of Plaintiff(s)

STARK & STARK, P.C.

Joseph A. Cullen, Jr., ESQUIRE

Identification No.: 82167 777 Township Line Rd. #120

Yardley, PA 19067

Telephone: (267)907-9600 Facsimile: (267)907-9659

e-mail: jcullen@stark-stark.com

: COURT OF COMMON PLEAS

: PHILADELPHIA COUNTY, PA

Filed and Attested by the

C. JONES

Office of Judicial Records

Attorneys for Plaintiff 24 SEP 2019 11:19 am

July Term, 2019

: No. 03491

Langhorne, PA 19047

VS.

Robert Sokolove

376 David Drive

Continental Tire the Americas LLC

1950 Continental Blvd.

Charlotte, NC 28273

and

Tire Rack

7101 Vorden Parkway

South Bend, IN 46628

AFFIDAVIT OF SERVICE

I, Joseph A. Cullen, Jr., Esq., being duly sworn according to law does depose and say that on July 26, 2019 the Writ of Summons issued to Defendant, Continental Tire the Americas LLC in the above captioned matter was served by certified mail return receipt requested to Defendant, Continental Tire the Americas LLC, 1830 MacMillan Park Dr., Fort Mill, SC 29707 on August 16, 2019 as evidenced by the attached copy of the certified mail return receipt card attached at Exhibit "A".

By:

Joseph Al Cullen, Jr.

Attorneys for Plaintiff

SWORN TO AND SUBSCRIBED BEFORE ME THIS 12" DAY OF September, 2019.

<u>Cunnufer Wall</u> Notary Publig

Commonwealth of Pennsylvania - Notary Seal JENNIFER WALKER, Notary Public Bucks County My Commission Expires May 21, 2022

4852-2779-9710, v. 1

Case ID: 190703491

EXHIBIT A

STARK & STARK

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Via Certified Mail - Return Receipt Requested and First Class Mail

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August 8, 2019

Continental Tire the Americas, LLC 1830 MacMillan Park Dr. Fort Mill, SC 29707

Re:

Robert Sokolove v. Continental Tire the Americas, LLC et al. CCP Philadelphia

Dear Sir/Madam:

I represent Plaintiff, Robert Sokolove regarding the above matter. Enclosed for service upon you is a Writ of Summons issued by the Court of Common Pleas Philadelphia, Pennsylvania on July 26, 2019.

Please forward the enclosed to your insurance carrier and/or attorney.

Thank you for your attention to the enclosed.

My direct dial is (267)907-9612, e-mail jcullen@stark-stark.com

Very truly yours,

STARK & STARK P.C.

U.S. Postal Service" CERTIFIED MAIL® RECE Domestic Mail Only For delivery information, visit our website at	IPIT			
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STARK & STARK, P.C.

Joseph A. Cullen, Jr., ESQUIRE

Identification No.: 82167 777 Township Line Rd. #120

Yardley, PA 19067

Telephone: (267)907-9600 Facsimile: (267)907-9659

e-mail: jcullen@stark-stark.com

Filed and Attested by the Office of Judicial Records Attorneys for Plaintiff 2 OCT 2019/12:07 pm

Varints of

Robert Sokolove

: COURT OF COMMON PLEAS

: PHILADELPHIA COUNTY

VS.

July Term, 2019

No. 03491

Continental Tire the Americas LLC

: CIVIL ACTION - LAW

and

Tire Rack

NOTICE

YOU HAVE BEEN SUED IN COURT. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and Notice are served, by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER. THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

PHILADELPHIA BAR ASSOCIATION LAWYER REFERRAL AND INFORMATION SERVICE One Reading Center Philadelphia, Pennsylvania 19107 Telephone: (215) 238-1701

AVISO PARA DEFENDER

USTED HA SIDO DEMANDADO/A EN LA CORTE. Si usted desea defender conta la demanda puestas en las siguientes páginas, usted tienen que tomar acción dentro veinte (20) días después que esta Demanda y Aviso es servido, con entrando por escrito una aparencia personalmente o por un abogado y archivando por escrito con la Corte sus defenses o objeciones a las demandas puestas en esta contra usted. Usted es advertido que si falla de hacerlo el caso puede proceder sin usted y un jaxgamiento puede ser entrado contra usted por la Corte sin más aviso por cualquier dinero reclamado en la Dermanda o por cualquier otro reclamo o alivio solicitado por Demandante. Usted puede perder dinero o propiedad o otros derechos importante para usted.

USTED DEBE LLEVER ÉSTE PAPEL A SU ABOGADO ENSEGUIDA. SI USTED NO TIENE UN ABOGADO, VAYA O LLAME POR TELÉFONO LA OFICINA FLIADA AQUI ABAJO. ESTA OFICINA PUEDE PROVEERÉ CON INFORMACIÓN DE CÓMO CONSEGUIR UN ABOGADO.

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ASOCIACION DE LICENCIADOS DE FILADELFIA
SERVICIO DE REFERENCIA
E INFORMACION LEGAL
One Reading Center
Filadelfia, Pennsylvania 19107
Telefono; (215) 238-1701

STARK & STARK, P.C.

Joseph A. Cullen, Jr., ESQUIRE

Identification No.: 82167 777 Township Line Rd. #120

Yardley, PA 19067

Telephone: (267)907-9600 Facsimile: (267)907-9659

e-mail: jcullen@stark-stark.com

Attorneys for Plaintiff

Robert Sokolove

376 David Drive

Langhorne, PA 19047

VS.

Continental Tire the Americas LLC

1950 Continental Blvd. Charlotte, NC 28273

and

Tire Rack 7101 Vorden Parkway

South Bend, IN 46628

: COURT OF COMMON PLEAS

: PHILADELPHIA COUNTY, PA

: July Term, 2019

: No. 03491

: CIVIL ACTION - LAW

COMPLAINT

1. Plaintiff, Robert Sokolove, is an adult individual residing at 376 David Drive, Langhorne, Bucks County, Pennsylvania.

2. Defendant, Continental Tire the Americas LLC (hereinafter referred to as "Continental"), is a corporation with its principal place of business located at 1830 MacMillan Park Drive, Fort Mill, South Carolina 29707 and is engaged in the research, design, testing, development, manufacture, export, marketing, advertisement, distribution, sale of tires and

otherwise placed into the stream of commerce the tires, in Philadelphia County and throughout the world.

- 3. Defendant Tire Rack, is a corporation with its principal place of business located at 7101 Vorden Parkway, South Bend, Indiana 46628 and is engaged in the marketing, advertisement, distribution, sale of and otherwise placed into the stream of commerce tires for motor vehicles, in Philadelphia County and throughout the world.
- 4. On and prior to August 2, 2017, and all relevant times herein, the Continental was a corporation authorized to conduct business in the Commonwealth of Pennsylvania and in fact doing and transacting business in the City and County of Philadelphia, Commonwealth of Pennsylvania.
- 5. On and prior to August 2, 2017, and all relevant times herein, Defendant, Tire Rack was engaged in the sale and distribution of tires and accessories in Philadelphia County and throughout southeastern Pennsylvania.

JURISDICTION AND VENUE

6. Jurisdiction and venue are proper in this Court because each defendant regularly advertises in, ships products to and sells products in Philadelphia County and each defendant regularly conducts business in Philadelphia County through employees, agents or other representatives.

BACKGROUND

7. Defendants Continental and Tire Rack collectively and in concert were responsible for researching, designing, testing, developing, exporting components and/or importing components to the United States, manufacturing, assembling, marketing, advertising,

distributing, selling and placing into the stream of commerce a subject tire relating to this incident.

- Defendant distributor Tire Rack sold the subject tires to Plaintiff, Robert
 Sokolove on March 15, 2016 via the internet.
- 9. Defendant Continental expected the tires to reach the user in the same condition it was in when it left their custody and control.
- 10. The subject tire was installed on Plaintiff's vehicle, a 2011 Jaguar XK, at Rehobath Auto Repair in the Spring of 2016.
- 11. Plaintiff maintained his motor vehicle in a condition which was without substantial change from its condition when it left the custody and control of the defendants.
- 12. On August 3, 2017, at 3:25 PM, Plaintiff was operating his 2011 Jaguar XK in a westerly direction on I-76 located in Charlestown Township, Chester County, Pennsylvania.
- 13. When suddenly, the front end of Plaintiff's vehicle began to shake and he lost control of his vehicle, travelling onto the north berm of I-76, striking a tree stump with the front end of the vehicle, overturning once and coming to a final rest facing east on the north berm of I-76. The front tires had fallen off the front of the vehicle.
- 14. Plaintiff sustained severe and permanent injuries including but not limited to Fractured Lumbar (L2); Separated Left Shoulder; Torn Right Meniscus requiring surgery; and back injury.
- 15. Plaintiff has suffered a loss of earnings and/or earning capacity and will suffer same for an indefinite time into the future to his great detriment and loss.

- 16. Plaintiff has incurred substantial medical expense as a result of medical treatment in the past and will require medical treatment for the rest of his life, thereby incurring substantial medical expenses in the future.
- 17. As a direct and proximate cause of Defendants' conduct and the defectiveness of Defendants' product, Plaintiff has suffered pain, discomfort, frustration, embarrassment, loss of enjoyment of life's pleasures, an inability to attend to usual and daily activities and will suffer same for the rest of his life.
- 18. As a direct and proximate cause of Defendants' conduct and the defectiveness of Defendants' product, Plaintiff will require additional medical care for the rest of his life, to his great detriment and loss.

COUNT I STRICT LIABILITY

ROBERT SOKOLOVE

CONTINENTAL TIRE THE AMERICAS LLC AND TIRE RACK

- 19. The allegations of paragraphs 1 through 18 as well as all subsequent paragraphs are incorporated in Count I by reference.
- 20. Defendants manufactured, supplied, warranted, sold and placed on the market and into the stream of commerce a defective and unreasonably dangerous product, knowing that the tires would reach consumers without substantial change in the condition in which it was sold and that, at the time the tires left Defendants' control, they were defective and in an unreasonably dangerous condition.

- 21. When the Defendants researched, designed, tested, developed, manufactured, supplied, warranted exported, imported, assembled, marketed, advertised, distributed and/or sold the tires, they were aware of the defective condition.
- 22. The Defendants and at the time of manufacture of the tires knew the product posed a serious and imminent danger to the lives and safety of motor vehicle drivers.
- 23. The Defendants and the tire manufacturing industry have known, and knew at the time of manufacture of the subject tires, that a safe tire, free from defect, must contain effective and adequate warnings to prevent harm to motor vehicle drivers.
 - 24. The aforementioned tires were not safe for its reasonably foreseeable uses.
- 25. The aforementioned tires were defective and unsafe in that when installed and in use on the Plaintiff's vehicle, for its reasonably foresceable uses, it subjected Plaintiff to serious injuries when the aforementioned product was used in an intended and foreseeable manner. The tire's defects as well as the Defendants' failures include, but are not limited to, as follows:
 - (a) designing, manufacturing, assembling, marketing, selling and distributing tires that failed to function in an intended and foreseeable manner causing the tire to blow out;
 - (b) designing, manufacturing, assembling, marketing, selling and distributing defective tires likely to malfunction during foreseeable use;
 - (c) The tire is defective in design because it is likely to become damaged and fail;
 - (d) The tire is defective in design because it lost ability to perform safely and effectively during the expected and ordinary useful life of the tire, and contained no warnings to the operator to inspect prior to each and every use;
 - (e) Such other acts or omissions as may be ascertained through discovery, or

as may be demonstrated by the evidence adduced at trial.

- 26. Defendants are strictly liable to Plaintiffs pursuant to Section 402A of the Restatement (Second) of Torts.
- 27. The defective condition of the tires was the factual cause of Plaintiff's August 2, 2017 crash and life threatening injuries.
- 28. Defendants failed to adequately test the product prior to manufacturer, marketing, distributing and failed to test the product subsequent to assembling.
- 29. Defendant Continental failed to adequately instruct Defendant, Tire Rack to visually inspect the tires for damage prior to the sale of the defective tires to Plaintiff.
- 30. Defendant, Tire Rack failed to adequately visually inspect the tires at the time of sale and installation.
- 31. Defendants failed to adequately visually inspect the tires immediately prior to delivery to the Plaintiff.
- 32. Defendants' failure to perform adequate testing, inspections and give adequate and appropriate information, warning and directions was a direct and proximate cause of the severe and permanent injuries sustained by Plaintiff.
- 33. Upon information and/or belief, when the tires were manufactured, the Defendants had the technological capability to inspect them.
- 34. At all times referenced herein, Defendants were acting as agents and employees of each other and were acting within the scope, purpose and authority of that agency and employment with full knowledge, permission and consent of each other Defendant.

WHEREFORE, Plaintiff demands judgment against Defendants for damages, in amounts in excess of the jurisdictional limits.

COUNT II NEGLIGENCE

ROBERT SOKOLOVE

CONTINENTAL TIRE THE AMERICAS LLC AND TIRE RACK

- 35. The allegations of paragraphs 1 through 34 and all subsequent paragraphs are incorporated by reference as if fully set forth herein.
- 36. Plaintiff's crash and injuries were caused by the negligent and reckless conduct of the Defendants in researching, testing, designing, developing, manufacturing, importing, marketing, advertising, distributing, assembling and selling the tires and by engaging in the following negligent and reckless conduct:
 - (a) Failing to design a safe and effective tire;
 - (b) Carelessly and negligently selling and distributing a tire that was not safe and was defective;
 - (c) Carelessly and negligently selling and distributing a tire which contained defective, malfunctioning materials;
 - (d) Carelessly and negligently selling and distributing tires that would not unexpectedly malfunction while in operation;
 - (e) Carelessly and negligently selling and distributing a tire that lacked adequate or any warnings as to the safe operation and reliability of use of the tire;
 - (f) Carelessly and negligently selling and distributing a tire that could become unreasonably dangerous given their unreliability;

- (g) In breach of their duty, negligently incorporated into the design and manufacture of a tire that could not stand up to normal usage; failed to design, develop, manufacture, market, sell and distribute the tire such that it would not injure users/drivers;
- (h) Such other acts or omissions constituting carelessness, negligence, recklessness and gross negligence as may be ascertained through discovery, or as may be demonstrated by the evidence adduced at trial.
- 37. Defendants failed to adequately test and/or visually inspect the product prior to manufacture, marketing and distributing, and failed to test the product subsequent to assembly and/or immediately prior to delivery to the Plaintiff.
- 38. Defendants' failure to perform adequate testing and to give adequate and appropriate information, warning and directions was a direct and proximate cause of the severe and permanent injuries sustained by Plaintiff.
- 39. At all times referenced herein, Defendants and each of them were acting as agents and employees of each of the other Defendants and were acting within the scope, purpose and authority of that agency and employment and with full knowledge, permission and consent of each other Defendant.

WHEREFORE, Plaintiff demands judgment against Defendants for damages in amounts in excess of the jurisdictional limits.

COUNT III

BREACH OF WARRANTY, IMPLIED AND EXPRESS WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE

ROBERT SOKOLOVE

CONTINENTAL TIRE THE AMERICAS LLC AND TIRE RACK

- 40. The allegations of paragraphs 1 through 39, as well as all subsequent paragraphs are incorporated by reference as if fully set forth.
- 41. At some time prior to the date of purchase by Plaintiff, Defendants expressed warranties that the subject tires were safe for use for the purposes intended and were of merchantable quality.
- 42. At some time prior to August 2, 2017, Defendants expressly and impliedly warranted by implication that the tires were was reasonably fit for the purposes intended and was of merchantable quality.
- 43. Said representations and warranties set forth in the preceding two paragraphs form part of the basis of the bargain for the sale of the tires and were relied upon by Plaintiffs.
 - 44. That in truth and in fact, said representations and said warranties were false.
- 45. As a direct and proximate result of the aforesaid breach of express and implied warranties, Plaintiff sustained the injuries and damages set forth above.
- 46. At all times referenced herein, Defendants and each of them were acting as agents and employees of each of the other Defendants and were acting within the scope, purpose and authority of that agency and employment and with full knowledge, permission and consent of each other Defendant.

WHEREFORE, Plaintiff demands judgment against defendants for damages in amount in excess of the jurisdictional limits.

Respectfully submitted:

STARK & STARK, P.C.

Joseph A. Cullen, Jr.

Attorneys for Plaintiffs

Date: 10.2.2019

VERIFICATION

I Robert Sokolove hereby states that he is the Plaintiff in this action and verifies that the statements contained in the foregoing Complaint are true and correct to the best of his knowledge, information and belief. The undersigned understands that the statements contained therein are made subject to the penalties of 18 Pa.C.S. Section 4904, relating to unsworn falsification to authorities.

ROBERT SOKOLOVE

MARSHALL DENNEHEY WARNER COLEMAN & GOGGIN

BY: KEVIN E. HEXSTALL, ESQUIRE

Attorney Identification No.: 81248

BY: MOHAMED N. BAKRY, ESQUIRE

Attorney Identification No.: 206530 2000 Market Street, Suite 2300

Philadelphia, PA 19103

215-575-2600

Filed and Attested by the Office of Judicial Records
Attorneys for Defendan 2019 11.19 am
Continental Tire the Am STAMATOC

:

ROBERT SOKOLOVE

Plaintiff

CONTINENTAL TIRE THE AMERICAS LLC

and

V.

TIRE RACK
Defendants

COURT OF COMMON PLEAS PHILADELPHIA COUNTY

JULY TERM, 2019

NO.: 3491

CIVIL ACTION - LAW

ENTRY OF APPEARANCE

OFFICE OF JUDICIAL RECORDS:

Kindly enter our appearance on behalf of Defendant, Continental Tire the Americas LLC, in the above-captioned matter.

MARSHALL DENNEHEY WARNER COLEMAN & GOGGIN

Kevin E. Hexstall

KEVIN E. HEXSTALL, ESQUIRE MOHAMED N. BAKRY, ESQUIRE Attorneys for Defendant, Continental Tire the Americas LLC

EXHIBIT B

From:

Tom Tyler <Tetyler@dpt-law.com>

Sent:

Friday, October 25, 2019 11:25 AM

To:

Hexstall, Kevin E.

Subject:

RE: Sokolove vs Continental Tire the Americas LLC and Tire Rack

Mr. Hextall:

Thank you for your email. My client, The Tire Rack, Inc., consents to and agrees to removal of this case to the United States District Court Eastern District of Pennsylvania.

Regards,

Tom Tyler

Telephone (215) 732-3755 (ext. 207)

Davis, Parry & Tyler, P.C.



123 South Broad Street

Suite 2102

Philadelphia, PA 19109-1024

From: Hexstall, Kevin E. [mailto:KEHexstall@MDWCG.com]

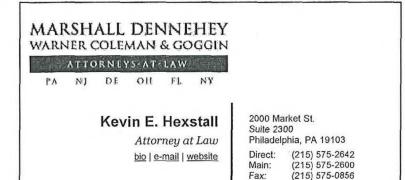
Sent: Thursday, October 24, 2019 1:35 PM

To: Tom Tyler

Subject: Sokolove vs Continental Tire the Americas LLC and Tire Rack

Mr. Tyler,

As you are aware, I am counsel for Continental Tire the Americas LLC in this matter. Please confirm that your client, Tire Rack, consents to and agrees to removal of the case to the United States District Court Eastern District of Pennsylvania. Thank you.



This e-mail transmission and any documents, files or previous e-mail messages attached to it, are confidential and are protected by the attorney-client privilege and/or work product doctrine. If you are not the intended recipient, or a person responsible for delivering it to the intended recipient, you are hereby notified that any review, disclosure, copying, dissemination, distribution or use of any of the information contained in, or attached to this e-mail transmission is STRICTLY PROHIBITED. If you have received this transmission in error, please immediately notify me by forwarding this e-mail to KEHexstall@MDWCG.com, or by telephone at (215) 575-2642 and then delete the message and its attachments from your computer.

CERTIFICATE OF SERVICE

A copy of the foregoing *Notice of Removal* was served this day by email and regular U.S. mail, postage prepaid, upon the following:

Joseph A. Cullen, Jr., Esquire Stark & Stark, P.C. 777 Township Line Rd. #120 Yardley, PA 19067-5559 jcullen@stark-stark.com

Attorney for Plaintiff Robert Sokolove

Thomas E. Tyler, Esquire Davis, Parry & Tyler, P.C. 123 South Broad Street, Suite 2102 Philadelphia, PA 19109-1024 tetyler@dpt-law.com

Attorney for Defendant Tire Rack

MARSHALL DENNEHEY WARNER COLEMAN & GOGGIN

KEHERSPALL

BY:

Date: 10/28/19